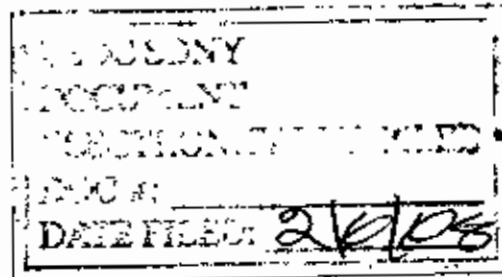


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X
DANIEL FORBES and JULIE FORBES, :

Plaintiffs, : **ORDER**

- against - : 05 Civ. 7331 (NRB)

THE CITY OF NEW YORK, LINCOLN :
CENTER FOR THE PERFORMING ARTS, :
et al., :

Defendants. :

-----X
NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

WHEREAS this case has been reassigned to this Court on January 10, 2008 from Chief Judge Kimba Wood's docket following her recusal on January 9, 2008; and

WHEREAS at the time of reassignment there was pending a motion to reconsider Chief Judge Wood's granting of the Lincoln Center defendants's motion to dismiss; and

WHEREAS after the reassignment, plaintiffs petitioned the Court on January 14, 2008 to vacate Chief Judge Wood's order dismissing the case against the Lincoln Center defendants; and

WHEREAS our review of relevant case law, including the Supreme Court's decision in Lilieberg v. Health Services Acquisition Corp., 486 U.S. 847, 859-60 (1988) (finding that vacatur is appropriate regardless of "whether or not the judge actually knew of facts creating an appearance of impropriety"), and the facts at issue


here show that an appearance of partiality could arise, which caused Chief Judge Wood to recuse herself; it is hereby

ORDERED that plaintiffs' motion to vacate Chief Judge Wood's decision dismissing the case against the Lincoln Center defendants is **GRANTED** without adopting any of Chief Judge Wood's comments on the motion for reconsideration; and it is hereby

ORDERED that plaintiff's motion for reconsideration is **DISMISSED** as moot; and it is hereby

ORDERED that the Lincoln Center defendants shall refile their motion to dismiss within three weeks.

DATED: New York, New York
February 5, 2008



NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

A copy of the foregoing Order has been mailed on this date to the following:

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